

GENTILE CRISTALLI
MILLER ARMENI SAVARESE
PAOLA M. ARMENI
Nevada Bar No. 8357
Email: parmeni@gcmaslaw.com
410 South Rampart Boulevard, Suite 420
Las Vegas, Nevada 89145
Tel: (702) 880-0000
Fax: (702) 778-9709
Attorney for Defendant, JERMAINE SMITH

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JERMAINE SMITH,

Defendant.

CASE NO. 2:12-cr-00004-APG-GWF

**STIPULATION AND ORDER TO EXTEND TIME FOR DEFENDANT JERMAINE
SMITH TO REPLY TO GOVERNMENT'S OPPOSITION (DKT 1312)
(SECOND REQUEST)**

IT IS HEREBY STIPULATED by and between Jermaine Smith, Defendant, by and through his counsel, Paola M. Armeni, Esq., of the law firm of Gentile Cristalli Miller Armeni Savarese, and the Plaintiff, United States of America, by and through Daniel Bogden, United States Attorney, and Adam Flake, Assistant United States Attorney to extend the time for Defendant, Jermaine Smith to reply to the Government's Opposition (DKT 1312) filed on November 18, 2016. Defendant's replies are currently due December 22, 2016.

IT IS HEREBY STIPULATED AND AGREED that the deadline for filing any replies be extended thirty (30) days up to and including January 23, 2017.

This Stipulation is entered into for the following reasons:

1. On October 31, 2016, Defendant filed a Motion for Sentence Modification Under Rule 35(c). *See* DKT 1297. On November 7, 2016, Defendant filed a Motion for Sentence Modification Pursuant to Rule 60(d). *See* DKT 1305. A Motion for Sentence Reduction and

1 Join Resentencing of CR 2:12 0004 for Court of Appeals Overturning the 6 Level
2 Enhancement of Plain Error. *See* DKTs 103 and 1304. A Motion to Amend Pursuant [sic]
3 Rule 60 (b)(5). *See* DKT 1306. A 3852 Motion to Amend Sophisticate [sic] Means Motion
4 2B1.1 Sophisticated Means. *See* DKT 1308. On November 14, 2016, Defendant filed a
5 Motion Under Fed.R.Crim. Proc. 36. Permitting the Court to Correct an Error After 14Day/1
6 Year Deadline. *See* DKT 1310.

7 2. On November 18, 2016, the Government filed its Opposition to Defendant Jermaine
8 Smith's Motion for Sentence Modification Under Rule 35(c); Motion for Sentencing
9 Reduction and Join Resentencing of CR 2:12 0004 For Court of Appeals Overturning the 6
10 Level Enhancement for Plain Error; Motion for Sentence Modification Pursuant [sic] to Rule
11 60(d), Motion to Amend Perusant [sic] Rule 60(b)(5); 3852 Motion to Amend (794)
12 Amendment) Minimal Role; 3582 Motion to Amend Sophisticate [sic] Means Motion 2B1.1
13 Sophisticated Means; and Motion Under Fed.r.Crim.Proc.36. Permitting the Court to Correct
14 an Error After 14Day/1 Year Deadline.

15 3. Counsel for defendant, Jermaine Smith, was recently appointed by CJA on November
16 18, 2016. *See* DKT 1311, and needs time to review the Motions filed by Jermaine Smith and
17 the Opposition filed by the Government.

18 4. On November 22, 2016, attorney Paola M. Armeni filed her Notice of Appearance to
19 officially enter the record of this case.

20 5. Thereafter, Ms. Armeni worked with prior counsel to receive a copy of the file.

21 6. Ms. Armeni was able to retrieve Mr. Smith's file from prior counsel on December 13,
22 2016.

23 7. Upon review of the receipt of copy from Jonathan Powell, Esq., it was determined that
24 the discovery file consisted of ninety-eight (98) cds, one (1) hard drive, and numerous
25 documents, and correspondence etc., that counsel must review prior to filing her responsive
26 pleading.

27 8. Due to the recent receipt of discovery, as well as the amount of discovery received, Ms.
28 Armeni is unable to review pertinent discovery and respond timely to the Government's

1 Response by the current deadline of December 22, 2016.

2 9. Mr. Smith is currently in custody.

3 10. Mr. Smith does not object to this extension.

4 11. The additional time requested herein is not sought for purposes of delay and the denial
5 of this request for a continuance could result in a miscarriage of justice;

6 12. For all the above-stated reasons, the ends of justice would be best served by the
7 continuance of the motion reply deadline.

8 13. This is the second request for a continuance of the Defendant's reply deadline.

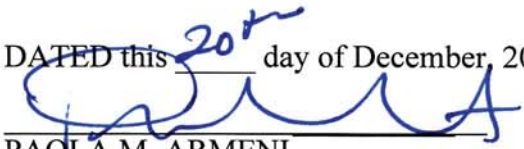
9 DANIEL BOGDEN
10 UNITED STATES ATTORNEY
DISTRICT OF NEVADA

GENTILE CRISTALLI
MILLER ARMENI SAVARESE

11 DATED this 20th day of December, 2016.

12 DATED this 20th day of December, 2016.

13 /s/Adam Flake
ADAM FLAKE.
14 Assistant United States Attorney
Attorneys for Plaintiff,
15 UNITED STATES OF AMERICA

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17 PAOLA M. ARMENI
18 Attorney for Defendant,
19 JERMAINE SMITH
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1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 UNITED STATES OF AMERICA,

CASE NO. 2:12-cr-00004-APG-GWF

4 Plaintiff,

5 vs.

6 JERMAINE SMITH,

7 Defendant.

8 **FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER**

9 Based on the pending Stipulation of counsel, and good cause appearing therefore, the
10 Court hereby finds that:

11 **CONCLUSIONS OF LAW**

12 Based on the fact that counsel has agreed to a continuance, the Court hereby
13 concludes that:

14 1. On October 31, 2016, Defendant filed a Motion for Sentence Modification Under Rule
15 35(c). *See* DKT 1297. On November 7, 2016, Defendant filed a Motion for Sentence
16 Modification Pursuant to Rule 60(d). *See* DKT 1305. A Motion for Sentence Reduction and
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18 Enhancement of Plain Error. *See* DKTs 103 and 1304. A Motion to Amend Pursuant [sic] Rule
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21 11. The additional time requested herein is not sought for purposes of delay and the denial
22 of this request for a continuance could result in a miscarriage of justice;

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24 ...

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1 12. For all the above-stated reasons, the ends of justice would be best served by the
2 continuance of the motion reply deadline.

3 **ORDER**

4 **IT IS HEREBY ORDERED** by and between the parties herein, the deadlines for filing
5 of any replies are hereby due on or before 23rd day of January, 2017.

6 Dated: December 20, 2016.

7 

8 **ANDREW P. GORDON**
9 **UNITED STATES DISTRICT COURT JUDGE**
10 **CASE NO.: 2:12-cr-00004-APG-GWF**